

House Study Bill 17

SENATE/HOUSE FILE _____
BY (PROPOSED ETHICS AND
CAMPAIGN DISCLOSURE
BOARD BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to ethics regulations for the executive branch,
2 legislative branch, and local officials and employees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1185XD 83
5 tm/rj/l4

PAG LIN

1 1 Section 1. Section 68B.2A, subsection 1, Code 2009, is
1 2 amended to read as follows:
1 3 1. Any person who serves or is employed by the state or a
1 4 political subdivision of the state shall not engage in any
1 5 ~~outside employment or activity which is in conflict with the~~
1 6 ~~person's official duties and responsibilities. In determining~~
1 7 ~~whether particular outside employment or activity creates an~~
1 8 ~~unacceptable conflict of interest, situations in which an~~
1 9 ~~unacceptable conflict shall be deemed to exist shall include,~~
1 10 ~~but not to be limited to, any of the following conduct:~~
1 11 a. ~~The outside~~ Outside employment or an activity that
1 12 involves the use of the state's or the political subdivision's
1 13 time, facilities, equipment, and supplies or the use of the
1 14 state or political subdivision badge, uniform, business card,
1 15 or other evidences of office or employment to give the person
1 16 or member of the person's immediate family an advantage or
1 17 pecuniary benefit that is not available to other similarly
1 18 situated members or classes of members of the general public.
1 19 This paragraph does not apply to off-duty peace officers who
1 20 provide private duty security or fire fighters or emergency
1 21 medical care providers certified under chapter 147A who
1 22 provide private duty fire safety or emergency medical services
1 23 while carrying their badge or wearing their official uniform,
1 24 provided that the person has secured the prior approval of the
1 25 agency or political subdivision in which the person is
1 26 regularly employed to engage in the activity. For purposes of
1 27 this paragraph, a person is not "similarly situated" merely by
1 28 being or being related to a person who serves or is employed
1 29 by the state or a political subdivision of the state.
1 30 b. ~~The outside~~ Outside employment or an activity that
1 31 involves the receipt of, promise of, or acceptance of money or
1 32 other consideration by the person, or a member of the person's
1 33 immediate family, from anyone other than the state or the
1 34 political subdivision for the performance of any act that the
1 35 person would be required or expected to perform as a part of
2 1 the person's regular duties or during the hours during which
2 2 the person performs service or work for the state or political
2 3 subdivision of the state.
2 4 c. ~~The outside~~ Outside employment or an activity that is
2 5 subject to the official control, inspection, review, audit, or
2 6 enforcement authority of the person, during the performance of
2 7 the person's duties of office or employment.
2 8 Sec. 2. Section 68B.2A, subsection 2, unnumbered paragraph
2 9 1, Code 2009, is amended to read as follows:
2 10 If the outside employment or activity is employment or
2 11 activity described in subsection 1, paragraph "a" or "b", the
2 12 person shall immediately cease the employment or activity. If
2 13 the outside employment or activity is employment or activity
2 14 described in subsection 1, paragraph "c", or constitutes any
2 15 ~~other unacceptable conflict of interest outside employment or~~
2 16 ~~an activity prohibited under rules adopted pursuant to~~
2 17 ~~subsection 4 or under the senate or house codes of ethics,~~
2 18 unless otherwise provided by law, the person shall take one of

2 19 the following courses of action:

2 20 Sec. 3. Section 68B.7, subsections 1 and 2, Code 2009, are
2 21 amended to read as follows:

2 22 1. A person who has served as an official, state employee
2 23 of a state agency, member of the general assembly, or
2 24 legislative employee shall not within a period of two years
2 25 after the termination of such service or employment ~~appear~~
~~2 26 before the agency or~~ receive compensation for any services
2 27 rendered on behalf of any person, firm, corporation, or
2 28 association in relation to any case, proceeding, or
2 29 application with respect to which the person was directly
2 30 concerned and personally participated during the period of
2 31 service or employment.

2 32 2. A person who has served as the head of or on a
2 33 commission or board of a regulatory agency or as a deputy
2 34 thereof, shall not, within a period of two years after the
2 35 termination of such service ~~accept~~ do any of the following:

3 1 a. Accept employment with that commission, board, or
3 2 agency ~~or receive.~~

3 3 b. Receive compensation for any services rendered on
3 4 behalf of any person, firm, corporation, or association in any
3 5 case, proceedings, or application before the department with
3 6 which the person so served wherein the person's compensation
3 7 is to be dependent or contingent upon any action by such
3 8 agency with respect to any license, contract, certificate,
3 9 ruling, decision, opinion, rate schedule, franchise, or other
3 10 benefit, or in promoting or opposing, directly or indirectly,
3 11 the passage of bills or resolutions before either house of the
3 12 general assembly.

3 13 Sec. 4. Section 68B.26, Code 2009, is amended to read as
3 14 follows:

3 15 68B.26 ACTIONS COMMENCED.

3 16 1. Complaints ~~regarding~~ alleging conduct of local
3 17 officials or local employees which violates this chapter,
~~3 18 except for sections 68B.36, 68B.37, and 68B.38,~~ shall be filed
3 19 with the county attorney in the county where the accused
3 20 resides. However, if the county attorney is the person
3 21 against whom the complaint is filed, or if the county attorney
3 22 otherwise has a personal or legal conflict of interest, the
3 23 complaint shall be referred to another county attorney.

3 24 2. Complaints alleging conduct of local officials or local
~~3 25 employees which violates section 68B.36, 68B.37, or 68B.38,~~
~~3 26 shall be filed with the ethics committee of the appropriate~~
~~3 27 house of the general assembly if the conduct involves lobbying~~
~~3 28 activities before the general assembly or with the board if~~
~~3 29 the conduct involves lobbying activities before the executive~~
~~3 30 branch.~~

3 31 Sec. 5. Section 68B.35, subsection 5, Code 2009, is
3 32 amended to read as follows:

3 33 5. a. A candidate for statewide office shall file a
3 34 financial statement with the ethics and campaign disclosure
3 35 board, a candidate for the office of state representative
4 1 shall file a financial statement with the chief clerk of the
4 2 house of representatives, and a candidate for the office of
4 3 state senator shall file a financial statement with the
4 4 secretary of the senate. Statements shall contain information
4 5 concerning the year preceding the year in which the election
4 6 is to be held. ~~The statement shall be filed no later than~~
~~4 7 thirty days after the date on which a person is required to~~
~~4 8 file nomination papers for state office under section 43.11,~~
~~4 9 or, if the person is a candidate in a special election, as~~
~~4 10 soon as practicable after the certification of the name of the~~
~~4 11 nominee under section 43.88, but the statement shall be~~
~~4 12 postmarked no later than seven days after certification.~~

4 13 b. The ethics and campaign disclosure board shall adopt
4 14 rules pursuant to chapter 17A providing for the filing of the
4 15 financial statements with the board and for the deposit,
4 16 retention, and availability of the financial statements. The
4 17 ethics committees of the house of representatives and the
4 18 senate shall recommend rules for adoption by the respective
4 19 houses providing for the filing of the financial statements
4 20 with the chief clerk of the house or the secretary of the
4 21 senate and for the deposit, retention, and availability of the
4 22 financial statements. Rules adopted shall also include a
4 23 procedure for notification of candidates of the duty to file
4 24 disclosure statements under this section.

4 25 Sec. 6. CODE EDITOR DIRECTIVES.

4 26 1. The Code editor shall create a new subchapter in
4 27 chapter 68B and move sections 68B.25 and 68B.26 into the new
4 28 subchapter.

4 29 2. The Code editor shall consider modifying the headnote

4 30 to section 68B.2A to read, "Prohibited Outside Employment and
4 31 Activities == Conflicts of Interest".
4 32 3. The Code editor shall consider modifying the headnote
4 33 to section 68B.7 to read, "Prohibited Use of Influence".
4 34 EXPLANATION
4 35 This bill relates to ethics regulations for the executive
5 1 branch, legislative branch, and local officials and employees.
5 2 The bill eliminates a general prohibition that any person
5 3 who serves or is employed by the state or a political
5 4 subdivision of the state shall not engage in any outside
5 5 employment or activity which is in conflict with the person's
5 6 official duties and responsibilities. The bill identifies as
5 7 prohibited outside employment or activities, certain outside
5 8 employment and activities that are currently identified in the
5 9 Code as examples of conflicts of interest.
5 10 The bill eliminates a requirement that persons
5 11 participating in undefined unacceptable conflicts of interest
5 12 must take certain courses of action. The bill provides that
5 13 persons conducting activities or outside employment that are
5 14 prohibited under rules adopted by the ethics and campaign
5 15 disclosure board or under the senate or house codes of ethics
5 16 must take certain courses of action.
5 17 Currently, a person who has served as an official, state
5 18 employee of a state agency, member of the general assembly, or
5 19 legislative employee is prohibited within a period of two
5 20 years after the termination of such service or employment from
5 21 appearing before the agency or receiving compensation for any
5 22 services rendered on behalf of any person, firm, corporation,
5 23 or association in relation to any case, proceeding, or
5 24 application with respect to which the person was directly
5 25 concerned and personally participated during the period of
5 26 service or employment. The bill eliminates the prohibition
5 27 against appearing before the agency.
5 28 Currently, complaints regarding conduct of local officials
5 29 or local employees which violates provisions included in Code
5 30 chapter 68B are filed with the county attorney. The bill
5 31 provides that complaints alleging conduct of local officials
5 32 or local employees which violates certain lobbying-related
5 33 provisions of Code chapter 68B shall be filed with the ethics
5 34 committee of the appropriate house of the general assembly if
5 35 the conduct involves lobbying activities before the general
6 1 assembly or with the ethics and campaign disclosure board if
6 2 the conduct involves lobbying activities before the executive
6 3 branch.
6 4 The bill eliminates statutory filing deadlines for
6 5 financial statements of candidates for statewide office and
6 6 candidates for the general assembly. Such deadlines could be
6 7 included in rules adopted by the senate and house of
6 8 representatives and by the ethics and campaign disclosure
6 9 board.
6 10 The bill includes Code editor directives for the
6 11 reorganization of Code chapter 68B and the titling of Code
6 12 sections in Code chapter 68B.
6 13 LSB 1185XD 83
6 14 tm/rj/14